



**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>DONNA JACOBS,</b>	)	<b>Charge No:2002SP0123</b>
<b>Complainant,</b>	)	<b>EEOC No:</b>
	)	<b>ALS No: 12071</b>
<b>and</b>	)	
	)	
	)	
<b>RUEBEL'S ADVENTURES,</b>	)	
<b>Respondent.</b>	)	

**RECOMMENDED ORDER AND DECISION**

On April 9, 2003, a Commission Panel entered an order holding Respondent in default pursuant to a *Petition for Hearing to Determine Complainant's Damages* filed by the Illinois Department of Human Rights (Department). The matter was assigned to the Administrative Law Section for a hearing on damages. A hearing on the issue of damages was held on August 5, 2003. This matter is now ready for decision.

**FINDINGS OF FACT**

The facts marked with asterisks are facts that were alleged in the Charge in this matter. Those facts were deemed admitted as a result of the default. The remaining facts are those that were proven by a preponderance of the evidence at the public hearing. Assertions made at the public hearing that are not addressed herein were determined to be unproven or were determined to be immaterial to this decision.

1. On May 20, 2003, an order dated May 20, 2003, scheduling a public hearing on damages was mailed to all Parties of record.
2. The order indicated that a hearing on damages would be held on August 5, 2003 at 9:30 a.m. at the Illinois Human Rights Commission, 100 W. Randolph, Suite 5-100, Chicago, Illinois.
3. On August 5, 2003, Complainant appeared at the Commission office in Chicago, Illinois for the scheduled public hearing on damages.
4. Respondent did not appear for the scheduled public hearing on damages.
5. Complainant lives in Lohman, Missouri with her husband.
6. Complainant's husband's name is John Jacobs (John).
7. Complainant has a physical handicap, epilepsy.\*
8. Complainant's handicap causes her to have seizures.
9. When Complainant has a seizure, she is vulnerable, she can wet herself, she can drool, and/or she can appear to be either drunk or on drugs.
10. On May 9, 2000, Complainant's doctor, Dr. Sangeeta Jain-Roberts, prescribed Complainant to obtain a service dog to assist her when she would have seizures.
11. Complainant obtained a service dog.
12. Complainant's service dog's name is Patra.

13. Patra is a certified "seizure alert" service dog.
14. Patra is specially trained to alert Complainant within 10-15 minutes before she has a seizure so she has time to prepare and summon help.
15. Prior to obtaining Patra, Complainant would not go outside and would generally stay in the house because she was afraid of having a seizure in public.
16. Once Complainant obtained Patra, she felt more confident to go outside and began going out in public and enjoying life again.
17. Respondent is a resort area with a hotel and cabins over a beautiful wooded campus located in Grafton, Illinois.
18. Sandy Lorton (Lorton) is owner and operator of Respondent.
19. Complainant and John made reservations to stay in a secluded cabin at Respondent while visiting a nearby water park called Grafton Raging Rivers Water Park.
20. Complainant and John drove approximately 165 miles from their home in Lohman, Missouri to Respondent in Grafton, Illinois.
21. When Complainant, John and Patra arrived at Respondent's resort on March 30, 2001, they checked in and went to their assigned cabin.
22. Approximately one half hour after the couple had entered their cabin, they received a telephone call from Lorton. John answered the telephone and Lorton asked if the couple had a large dog in the room. John answered yes and told Lorton it was his wife's service dog.
23. Lorton informed them that they had to leave because the resort did not allow dogs in the cabins.
24. John reiterated that the dog was a service animal and informed Lorton that the law allowed the animal to stay. Lorton answered that it was her motel, she could do as she pleased and ordered the couple to leave the premises.
25. Complainant keeps informational material about her service animal in her car.
26. Complainant and John went to the reception area to offer Lorton informational pamphlets about Complainant's service animal.
27. Complainant fully expected that Lorton would allow them to stay after Lorton received the pamphlets.
28. Complainant and John attempted to reason with Lorton that Patra was not a pet, but was a service dog specially trained to render needed medical services.
29. Complainant and John spoke to Lorton and gave her copies of several documents, including a pamphlet titled *Service Animals Allowed in Any Business which Operates as a Public Accommodation*, printed by Service Dogs Today, Inc., in Jefferson City, Missouri, the back cover of which indicates that information in this booklet was provided by the U.S. Department of Justice; a pamphlet titled *Commonly Asked Questions About Service Animals in Places of Business* by the U.S. Department of Justice, Civil Rights Division, Disability Section; an identification card that shows a picture of Patra and has writing on the face of the card stating *Certified Assistance Dog, Patra, National Service Dog, Assistance Dogs for Living, ADL, St. Louis & Jefferson City, MO, (314)892-0574 (573)659-8996, Owner, D. Jacobs, Lohman MO.*, and further stating information about Patra and his purpose, emergency numbers and medical information on the back; a prescription signed by Complainant's doctor, Jain-Roberts, from Jefferson City Medical Group Internal Medicine that indicates Complainant's name and prescribes "*Due to disability a service dog to [sic] required by my patient*"; and a 5" x 4" card stating *Department of Justice, Civil Rights Section, Americans with Disabilities Act, Service Animal Federal Law, Technical*

*Assistance Manual title III-4.2300 Service Animals, June 2000, printed as a public service by Service Dogs Today, Inc. P.O. Box 6946, Jefferson City, MO 65102 and reproducing what purports to be federal law FCR 28 CFR part 36, 36.302.*

30. Lorton appeared to ignore the pamphlets Complainant presented to her.
31. Lorton ordered Complainant and John to leave and advised them that she would refund their money.
32. Complainant and her husband left the cabin, retrieved a refund from Lorton and left the campus.
33. After Complainant and John left, they drove approximately 15 miles to Alton, Illinois to find other accommodations.
34. In Alton, Complainant and John tried to obtain replacement accommodations at the Super 8 Motel and the Holiday Inn Superdome, but both were full. The couple was able to find a room at the Comfort Inn.
35. Complainant felt very insignificant as a result of being ordered to leave Respondent's resort area.
36. This feeling caused Complainant to stay in the vehicle when they approached the hotels in Alton. At each hotel, Complainant asked John to go in first to determine if she and Patra would be welcomed.
37. Since being ejected from Respondent's resort, Complainant does not feel comfortable going in the front lobbies of hotels because she is afraid of being confronted about her service animal.
38. Because of Respondent's conduct, Complainant reverted back to her condition of not feeling comfortable going out of the house for approximately 6-8 months.
39. Because of Respondent's conduct, Complainant has a tendency to only visit public places she is familiar with so that she does not have to confront a situation where she and Patra are not allowed to enter the facilities.
40. Because of Respondent's conduct, Complainant's seizures became more frequent and severe and Complainant began to see her doctor for anxiety and panic attacks.
41. Because of Respondent's conduct, Complainant had one seizure so severe, she fell and broke her front teeth.
42. Because of Respondent's conduct, Complainant will not go into any unfamiliar place of public accommodation without sending John in first to determine if Patra will be welcomed.
43. Complainant suffered humiliation, anxiety and a feeling of being insignificant as a result of Respondent's conduct.
44. Complainant incurred medical expenses as a result of the discriminatory conduct.
45. Complainant incurred other expenses as result of the discriminatory conduct.
46. Complainant is not seeking attorney fees because she was not represented by an attorney at the Department proceedings nor at the public hearing.

### **CONCLUSIONS OF LAW**

1. Complainant is an "aggrieved party" within the meaning of Section 5/1-103(B) of the Illinois Human Rights Act, 775 ILCS 5/1-101 et. seq. (Act).
2. Complainant has a "handicap" within the meaning of Section 5/1-103(I) of the Act.
3. Respondent, Ruebel's Adventures, is a "place of public accommodation" within the meaning of Section 5/5-101(A) of the Act.

4. Respondent, Ruebel's Adventures is a "person" within the meaning of Section 5/1-103(L) of the Act.
5. Respondent has been held liable due to the order of default entered against the Respondent on April 9, 2003.
6. Due to order of default, Respondent has admitted the allegations in the Charge of Discrimination, specifically Respondent admits that it denied Complainant the full and equal enjoyment of its place of public accommodation because of Complainant's physical handicap. **Bielecki and Illinois Family Planning Council**, 40 Ill. HRC Rep. 109 (1988).
7. Complainant has proven, by a preponderance of the evidence, that she has suffered monetary loss and emotional damage as a result of Respondent's discriminatory actions.

### **DISCUSSION**

Complainant and her husband, John, made reservations to stay in a cabin at Respondent, Ruebel's Adventures. Ruebel's Adventures is a mountainous wooded resort area that overlooks the Mississippi and Illinois Rivers. The resort offers separate secluded cabins and other traditional hotel rooms. The couple intended to stay there while visiting a nearby amusement park called Grafton Raging Rivers Water Park. The couple drove with Complainant's service animal, Patra, approximately 165 miles from their home in Lohman, Missouri to Respondent's resort area in Grafton, Illinois.

When Complainant, John and Patra arrived to Respondent's resort area on March 30, 2001, they checked in and proceeded to go to their assigned cabin. Approximately one half hour after the couple had entered their cabin, they received a telephone call from Sandy Lorton (Lorton), whom the couple knew to be the owner and operator of the resort. John answered the telephone and Lorton asked if the couple had a large dog in the room. John answered yes and told Lorton it was his wife's service dog. Lorton informed them that they had to leave because the resort did not allow dogs in the cabins.

John reiterated to Lorton that the dog was a service animal and informed Lorton that the law allowed the animal to stay. Lorton answered that it was her hotel, she could do as she pleased and ordered the couple to leave the premises. The couple went to the reception area to reason with Lorton and to offer her informational literature about Complainant's disability and about service animals. Complainant fully believed that, once she had presented the literature to Lorton and explained her disability, Lorton would reconsider and allow them to stay; however, after having presented the literature to Lorton, Lorton would not change her decision. After the couple was unable to convince Lorton to allow them to stay, they obtained a refund of the lodging price they had paid and left. The couple was very upset and was forced to drive approximately 15 additional miles to another town in order to find replacement accommodations.

### **DAMAGES**

When making a determination of damages, the goal is to make the complainant whole, i.e., to return him to the position he would have been absent the discrimination. Section 5/8A-14-104(J) of the Act.

### Monetary loss

Complainant requests expenses for travel for her husband and herself to the public hearing. Complainant requests 34 cents per mile for gas and mileage reimbursement for traveling approximately 862 round trip miles from her home to Chicago; \$140.00 for hotel accommodations, \$90.00 for meals, and \$14.00 for round trip taxicab transportation. Complainant is entitled to \$293.08 for gas and mileage, \$140.00 for hotel accommodations; \$90.00 for meals; and \$14.00 for taxicab rides.

Complainant lives out of state in Lohman, Missouri and had to travel to Alton, Illinois to attend the Department-sponsored fact-finding conference. Complainant requests expenses for traveling to Alton, Illinois for the fact-finding conference. Complainant requests reimbursement for \$85.00 for gas and mileage; \$100.00 in reimbursement for hotel accommodations and \$30.00 for meals. Complainant is entitled to reimbursement of these costs.

Complainant requests \$35.00 in gas and mileage reimbursement for having to travel to Alton, Illinois to find lodging when she was ejected from Respondent. Complainant is entitled to \$10.20 for 30 miles @ 34 cents per mile for the extra traveling.

### Dental Repairs

Complainant requests \$1,275.00 in reimbursement for a dental bill to repair her teeth due to the severe seizure she sustained caused by Respondent's discriminatory conduct. Complainant is entitled to reimbursement for this amount.

### Emotional Injuries

Complainant requests compensation of \$7,500.00 in emotional injury damages. Complainant submitted credible evidence as to her emotional suffering. John credibly testified that, prior to obtaining Patra, Complainant had been afraid of having a seizure in public; therefore she had stayed in the house for years, had shut her windows, would not answer the telephone and never went outside to shop. After John brought Patra home, Complainant had begun to feel comfortable going outside in public and had begun enjoying life again. After being ejected from Respondent's resort, John described Complainant as having been set back 6-8 months before she was ready to venture back out into the public. John credibly testified that Complainant was devastated about being ejected from the resort and that she still feels emotionally drained when going out into the public because she constantly feels threatened that she will be rejected when entering another hotel or restaurant. When Complainant does go out, she has a tendency to go to restaurants and other places that she, John and Patra have previously visited because of her fear of being asked to leave. If Complainant does find occasion to visit an unfamiliar restaurant, she insists that John goes in first to inquire whether she and Patra will be welcomed.

Complainant offered credible testimony that, after they were rejected from Respondent, they were inconvenienced by having to drive to Alton, Illinois to find replacement accommodations. Once they arrived at a hotel in Alton, Complainant refused to exit the

vehicle and asked John to go in first to determine if she would be welcomed with Patra. Because it was a Friday, Complainant and John had a difficult time finding a hotel and had to try three hotels before they were able to find replacement accommodations. Since March 30, 2001, Complainant's behavior changed in that she tends not to enter a hotel front lobby because of a fear of confrontation and will only enter through the back door. Complainant described that Respondent's conduct made her feel very insignificant. She now feels panicked and cannot speak when confronted about bringing her service animal into a place of public accommodation. When this happens, she allows John to explain the purpose of her service animal on her behalf. Complainant was visibly upset as she testified that, following the incident with Respondent, she felt anxiety, panic and stress, which caused her seizures to be more severe and also caused her to have more seizures, including one seizure that resulted in her falling down and breaking her front teeth.

The Commission accepts a Complainant's own testimony as a sufficient basis for awarding emotional distress damages. **Nichol and Boyd A. Jerrell & Co., Inc.** 14 Ill. HRC Rep. 149 (1984). The presumption under the Act is that recovery of all pecuniary losses will fully compensate an aggrieved party for his losses. **Smith v. Cook County Sheriff's Office**, 19 Ill. HRC Rep. 131,145 (1985). However, the Commission will award damages beyond pecuniary loss if it is absolutely clear from the record that the recovery of pecuniary loss will not adequately compensate the Complainant for his actual damages. **Kincaid v. Village of Bellwood, Bd. Of Fire and Police Commissioners**, 35 Ill. HRC Rep. 172, 182 (1987). Specifically, the Commission has granted emotional damages in public accommodation cases, where there is often little financial loss, when it is absolutely clear from the record that the recovery of pecuniary loss will not adequately compensate the Complainant for actual damages. **G.S. and Baksh**, \_\_ Ill. HRC Rep. \_\_, (1987CP0113, July 8, 1994). The amount awarded must be appropriate in light of the nature and duration of the suffering experienced by the complainant. **Smith**, *supra*.

In assessing an appropriate damages award for emotional distress in this case, I find the decision in **Krueger v. Cuomo, Secretary of the U.S. Department of Housing and Urban Development**, (96-2906, 7th Cir. 1997) helpful. The procedural posture of **Krueger** is that the Secretary of the U.S. Dept. of Housing and Urban Development (HUD) had issued a decision concluding that Krueger, the lessor of an apartment unit, had violated the federal Fair Housing Act by sexually harassing Maze, one of his tenants. Krueger appealed the Final Order of the Secretary of HUD decision to the 7<sup>th</sup> Circuit Court of Appeals. In its decision, the 7<sup>th</sup> Circuit agreed with the HUD administrative law judge's (ALJ) decision awarding the Petitioner \$10,000.00 in emotional distress damages. Krueger argued that the award was excessive because the emotional distress evidence consisted almost entirely of Maze's own testimony and that the ALJ's decision focused primarily upon Krueger's behavior -- rather than Maze's reaction to that behavior -- and that this focus resulted in an award that was unrequested, improper and tantamount to a punitive sanction.

The 7<sup>th</sup> Circuit, citing **United States v. Balistrieri**, 981 F.2d 916, 932 (7<sup>th</sup> Cir. 1992), rejected Krueger's argument, concluding that the ALJ was obligated to "look at both the direct evidence of emotional distress and the circumstances of the act that allegedly caused the distress," and further stating that the more inherently degrading or humiliating

the discriminator's action, the more reasonable it is to infer that one would suffer humiliation or distress from that action.

Here, it is not difficult to appreciate the predicament of Complainant, who had made reservations, registered at the desk, and settled into a secluded, wooded, picturesque cabin with her husband to relax and have fun at a nearby water park, only to be summoned to the lobby a short time later and forced to leave because her service dog accompanied her. Further, because Complainant was 165 miles from home, it is not difficult to imagine the inconvenience of being forced to drive even farther to try to find last-minute replacement accommodations on a Friday evening. Complainant was devastated, stayed home for 6-8 months and refuses to enter public places of accommodation she is unfamiliar with unless she first sends her husband in to ask if she and Patra are welcomed.

Respondent's conduct resulted in a marked and lingering change in Complainant's life in that it continues to negatively affect Complainant's ability to freely enter restaurants and hotels. Complainant should not be forced to live in this manner. Respondent's discriminatory conduct was blatant, degrading, humiliating, outrageous and unreasonable, and especially so since Lofton arrogantly ignored the apparently reputable educational literature presented to her by Complainant and demonstrated a disregard for Complainant's rights under the law.

Considering the conduct of Respondent and the lingering effects of the distress felt by Complainant, I find \$10,000.00 a more reasonable amount to compensate Complainant for her emotional injuries.

#### Other Relief

Complainant also requests that Respondent be ordered to post a sign stating the current law as to service animals and that Respondent be further ordered to take sensitivity training on how to communicate with people with disabilities.

Section 5/8B-104 provides for the types of relief and penalties the Commission may order upon a finding of a civil rights violation. Section 5/8B-104(F) provides that the Commission may order Respondent to post notices in a conspicuous place which the Commission may publish or cause to be published setting forth requirements for compliance with this Act or other relevant information which the Commission determines necessary to explain this Act. I find that an appropriate notice posting at Respondent's business would be helpful for this establishment.

Although the Act does not provide that an order for relief may include sensitivity training, Respondent would be greatly served to contact the Illinois Department of Human Rights or other federal or state agency and inquire about employer/employee training on the Act and/or other civil rights laws.

### **RECOMMENDATION**

Accordingly, it is recommended that an order be entered awarding Complainant the following relief:

- A. That Respondent pay to Complainant the sum of \$762.28 in travel expenses;
- B. That Respondent pay to Complainant the sum of \$1,275.00 in dental repair expenses;
- C. That Respondent pay to Complainant \$ 10,000.00 in emotional damages;
- D. That Respondent post notices stating the current relevant law as it applies to service animals in places of accommodation in at least two conspicuous places in the public lobby of Respondent place of accommodation for at least one full year and that Respondent report back to the Commission by affidavit or other appropriate means of its actions taken in compliance with this order.
- E. Attached and incorporated by reference in this order are Exhibits A (*ADA Business Brief by U.S. Department of Justice – 1 page*) and B (*Commonly Asked Questions about Service Animals in Places of Business by U.S. Department of Justice- 3 pages*). Respondent may utilize exact copies of these notices to comply with D or may choose to utilize any other reputable postings stating the current relevant law as it applies to service animals.
- F. That Respondent submit the report referenced in D above to the Commission within 60 days of the Order and Decision in this matter.
- G. That Respondent shall cease and desist from further discrimination on the basis of handicap in its place of public accommodation;
- H. That Respondent pay to Complainant pre-judgment interest on the awards in A and B, in accordance with the Commission Procedural Rules at 5300.1145.
- I. That the Commission retain jurisdiction for compliance as to the report indicated at D above.

**ENTERED: September 16, 2003**

### **HUMAN RIGHTS COMMISSION**

By: \_\_\_\_\_  
**SABRINA M. PATCH**  
**Administrative Law Judge**  
**Administrative Law Section**